

# EXHIBIT 7(a)

## Chapter 119

### SITE DEVELOPMENT PLAN REVIEW

**[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 3-2-1998 by L.L. No. 1-1998. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Planning Board and Zoning Board of Appeals – See Ch. 25.

Building construction – See Ch. 47.

Explosives – See Ch. 65.

Subdivision of land – See Ch. 118.

Zoning – See Ch. 130.

#### ARTICLE I

##### Definitions

##### § 119-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ANGLE OF REPOSE** – The maximum angle at which the exposed face of various soil and rock materials can deviate from the horizontal without incurring the likelihood of a slope failure.

**APPLICANT** – A person requesting a site development plan permit from the Village or a person to whom a site development plan permit has been granted in accordance with the provision of this chapter.

**APPROVING AUTHORITY** – The Village agency or public official empowered to administer the permit procedures of this chapter, as specified in § 119-4 hereof.

**BUILDING INSPECTOR** – The Building Inspector of the Village of Pomona, New York, or his authorized representative.

**DISTURBANCE** – The removal of vegetation, except as specifically permitted in § 119-2B herein, or the filling, excavation, regrading or removal of soil, rock or retaining structures in areas of steep slope, whether by manual labor, machine or explosive. The condition of disturbance will be deemed to continue until the area of disturbance is revegetated and/or permanently stabilized.

**DISTURBED AREA** – Any steep slope area for which a disturbance is proposed or is ongoing.

**PERSON** – Any person, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including public agencies and municipal corporations.

PLANNING BOARD — The Planning Board of the Village of Pomona, New York.

PROTECTED TREE — Any tree having historical value as determined by resolution of the Board of Trustees or any tree that has a circumference of 45 inches or more measured at a height of 4 1/2 feet above existing ground level at the base of the tree on the uphill side. [Added 9-7-2004 by L.L. No. 4-2004]

RIDGELINE — Long, narrow landforms found among the highest elevations in the region and associated with mountain chains.

SITE DEVELOPMENT PLAN PERMIT — The written form of Village approval granted by the approving authority and required by this chapter for the issuance of a work permit and the conduct of any steep slope regulated activity.

#### STEEP SLOPE

A. Any geographical area proposed for disturbance, whether on a single lot or not, having a topographical gradient of 15% or greater (ratio of vertical distance to horizontal distance) with a minimum horizontal dimension of 10 feet, whether man-made or natural, and whether created by a retaining structure or not. Steep slopes are further categorized as: [Amended 2-28-2005 by L.L. No. 1-2005]

(1) MODERATELY STEEP SLOPE — A slope equal to or greater than 15% but less than 25%;

(2) VERY STEEP SLOPE — A slope equal to or greater than 25% but less than 35%;

(3) EXTREMELY STEEP SLOPE — A slope equal to or greater than 35%.

B. The most steeply sloped area that meets the minimum area threshold, as specified above, shall determine approving authority jurisdiction and review procedures.

C. If the areas of proposed disturbance within each of the three categories of steep slope are individually less than the minimum areas defined above, then the area of all continuous steeply sloped areas proposed for disturbance shall be merged as specified herein. A steep slope area shall be regulated pursuant to the provisions of this chapter if the total of all such steeply sloped areas proposed for disturbance, as adjusted according to the weighing factors identified below, exceeds a sum of 3/10 acre or 13,068 square feet. [Amended 2-22-1999 by L.L. No. 2-1999]

Moderately steep slope area x 1.0

+ Very steep slope area x 1.5

+ Extremely steep slope area x 2.0

= Total weighted area

D. If no steep slope meets or exceeds the minimum area requirement for a steep slope,

but the total weighted area of two or more slope categories exceeds 13,068 square feet (3/10 acre), then the single slope category that has the largest area after the application of the relevant weighing factor shall determine approving authority jurisdiction and review procedures. All area measurements of square feet shall be to the nearest whole number.

**VILLAGE ATTORNEY** — The duly appointed Village Attorney for the Village of Pomona, New York.

**VILLAGE ENGINEER** — The duly appointed Village Engineer of the Village of Pomona, New York, or his duly appointed and authorized representative.

**WORK PERMIT** — The written approval issued by the Building Inspector permitting the actual commencement and continuation of work within a steep slope regulated area, consistent with the conditions, terms and requirements of the site development plan permit issued by the approving authority.

## ARTICLE II

### Regulated Activities and Review Standards

#### § 119-2. Regulated and exempt activities.

- A. Regulated activities. It shall be unlawful to create a new steep slope or to disturb an existing steep slope or to create any other disturbance of land on a steep slope, including the installation of retaining walls, other than an exempt activity as defined in Subsection B hereof, without having first obtained site plan approval from the Planning Board or such other approving authority as provided in this chapter and a work permit from the Building Inspector. [Amended 8-15-2005 by L.L. No. 3-2005]
- B. Exempt activities. The following activities on steep slopes do not require the issuance of a permit:
  - (1) Normal ground maintenance, including trimming of vegetation or removal of dead or diseased vegetation, selective trimming and pruning in previously landscaped areas and decorative planting, provided such activity does not involve regrading of land or any disturbance of steep slopes and further provided that such activity conforms with other applicable local laws and regulations. [Amended 8-15-2005 by L.L. No. 3-2005]
  - (2) The disturbance to steep slopes under temporary emergency conditions, as determined by the Village Engineer, where such disturbance is necessary to protect persons or property from present and imminent danger.

#### § 119-3. Review standards.

- A. In granting a site development plan permit under this chapter, the approving authority shall determine the following:
  - (1) That the proposed activity and the manner in which it is to be accomplished are in accordance with the purpose and findings set forth in this chapter.

- (2) That the proposed activity and the manner in which it is to be accomplished can be completed without increasing the possibility of creep or sudden slope failure and will minimize additional erosion to the maximum extent practicable.
  - (3) That the proposed activity and the manner in which it is to be accomplished will not adversely affect the preservation and protection of existing wetlands, water bodies, watercourses and floodplains.
  - (4) That the proposed activity and the manner in which it is to be accomplished can be completed in such a way so as not to adversely affect existing, proposed or potential future wells or sewage disposal systems or any endangered species of flora or fauna.
  - (5) That the proposed activity and the manner in which it is to be accomplished are consistent with the principles and recommendation of the adopted Village Master Plan.
- B. The applicant shall have the burden of proof to demonstrate compliance with this chapter.

### ARTICLE III

#### Application Procedures

##### § 119-4. Approving authority.

The approving authority for all applications for site development plan permits shall be as follows:

- A. For any application that involves a disturbance in an area of very steep slope or extremely steep slope, the Planning Board shall be the approving authority for the site development plan permit.
- B. Where the Planning Board is reviewing an application under the provisions of Chapter 118 of the Village Code, it shall also be the approving authority for any site development plan permit required in connection with such application.
- C. Except as provided in Subsections A and B hereinabove, the Village Engineer shall be the approving authority for all other steep slope residential site development plan permit applications, except that the Village Engineer, in his sole discretion, may refer any moderately steep slope site plan application to the Planning Board for review and approval. [Amended 2-28-2005 by L.L. No. 1-2005]

##### § 119-5. Application requirements.

- A. Required documentation. An application for a site development plan permit shall be made on forms furnished by the Building Department.
- B. Any application for a site development plan permit shall also contain the following:
  - (1) A written narrative explaining the nature of the proposal, including any

future development proposals for the property and whether alternative locations exist for the proposed activity.

- (2) A site development plan, which shall be drawn at a scale of not less than one inch equals 50 feet and prepared by a landscape architect, architect, professional engineer or other qualified person and showing the following information for all lots on the subject site that contain steep slopes:
  - (a) The location of proposed structures, septic systems, wells and driveways.
  - (b) The location of the proposed area of disturbance and its relation to neighboring properties, together with structures, roads and affected wetlands, if any, within 50 feet of the boundaries of the disturbed area.
  - (c) The existing topography in the proposed area of disturbance at a contour interval of not more than two feet. Contours shall be shown for a distance of 50 feet or greater beyond the limits of the proposed area of disturbance.
  - (d) The location and size of areas of extremely steep slope, very steep slope and moderately steep slope under existing and proposed conditions, in the area of the proposed disturbance and within a distance of 50 feet thereof.
  - (e) The proposed final contours of the disturbed area at a maximum contour interval of two feet and proposed surface materials or treatment.
  - (f) An erosion and sedimentation control plan.
  - (g) The details of any surface or subsurface drainage system proposed to be installed, including special erosion-control measures designed to provide for proper surface or subsurface drainage, both during the performance of work and after its completion.
  - (h) A tree map showing the number and location of existing trees of 20 inches or more in circumference at a height four feet above existing grade, keyed to a table listing species, height and caliper. The map shall show the trees intended to be removed during construction, subject to Planning Board approval. The Planning Board, in its discretion, may waive the requirement for individual tree identification where a large number of such trees are situated in an area that is to be preserved as shown with a clearing limit line. [Added 11-25-2003 by L.L. No. 9-2003]
  - (i) A landscape plan prepared by a licensed landscape architect showing replacement of trees that are proposed to be removed by the development and installation of trees in such locations as may be determined by the Planning Board. [Added 9-7-2004 by L.L. No. 4-2004]
- (3) A list of all applicable county, state or federal permits that are required for such work or improvement.



(4) Payment of all applicable fees.

C. The following information and material shall be supplied if requested by the approving authority or its representative:

(1) If required, the following items shall be provided on a site development plan(s) drawn of a scale of not less than one inch equals 50 feet, prepared by a landscape architect, architect, professional engineer or other qualified person:

(a) Cross sections of all disturbed steep slope areas.

(b) Existing soils within 50 feet of the proposed disturbed area, taken from field investigations by a soil scientist and classified into hydrological soil groups. The depth to bedrock and depth to water table, K-factor and soil and rock strata in all areas of disturbance shall be identified.

(c) A cut-fill map delineating areas of disturbance at affected depths on feet of zero to three feet, three to six feet, six to 10 feet and over and the estimated material quantities of cut/fill.

(d) A slope map showing existing and proposed slopes within the disturbed area for each of the soil types described in Subsection C(1)(b) above.

(e) Other information, including specific reports by qualified professionals on soils, geology and hydrology, as may be determined to be necessary by the approving authority.

(2) A plan with the existing topography of the watershed tributary to the disturbed area presented at a scale of not more than one inch equals 100 feet. This map shall show existing and, if required by the approving authority, proposed controls and diversions of upland water.

D. Number of copies. The number of copies to be submitted shall conform to the requirements of § 118-32C of this Code, except that if the approving authority is the Village Engineer, four copies of the application and all supporting materials shall be submitted.

#### § 119-6. Fees.

A. An application fee and inspection fee in amounts set forth in the fee schedule established from time to time by the Board of Trustees shall be submitted with the application.

B. Professional review fees.

(1) The Planning Board, in review of an application for a site development plan permit, may refer such application to such planner, engineer, environmental expert or other consultant as the Planning Board shall deem necessary to enable it to review such application as required by law. Fees charged by such consultant shall be paid by the Village and reimbursed to the Village by the applicant for the site development plan permit. Payment of consultants' fees by the applicant